



Decision with Statement of Reasons of Karen Moore, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber), under Rule 8 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/EV/23/1385

Re: Property at 56, Main Street, Leadhills, South Lanarkshire, ML12 6XR (“the Property”)

Parties:

Norma Fielding-Plummer residing at Ruggenhill Cottage, Abington by Biggar, ML12 6RW (“the Applicant”)

Ian Smith residing at the Property (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal under Rule 65 on 3 May 2023.
2. The application was considered by the Tribunal and further information was requested by email of 5 June 2023 as follows: *“Before a decision can be made, we need you to provide us with the following: 1. You have stated that this is a Rule 65 application, however, the tenancy agreement is not a short assured tenancy. The date of commencement of the tenancy is 1st October 2022, and only private residential tenancies could be created at that time. In order to end a private residential tenancy, you require to serve a Notice to Leave in a specific format. The application, therefore, is not competent and should be withdrawn. Please confirm that you are withdrawing the application. You may wish to take advice from a suitable housing advice agency or solicitor before making a further application, to ensure that the Notice to Leave is completed and served correctly. You should be aware of the following for future applications: 2. A full copy of the tenancy agreement is required. 3. When providing evidence of service of a Notice to Leave, you must provide evidence of posting and evidence of receipt, if served by Royal Mail. 4. When making an application, you must serve a section 11 notice on the local authority as required by section 56 of the Private Housing (Tenancies) (Scotland) Act 2016. You must provide the Tribunal with a copy of this notice together with evidence of service on*

the local authority. 5. You have stated an email address that is not in use in the application form, and you have been using the email address of another person. When making any further application, please ensure that you insert the correct email address at which we can contact you into the application form. 6. The information in the attached letter regarding *The Cost of Living (Protection for Tenants) (Scotland) Act 2022* may be of interest to you. If you are basing any future application on financial hardship, you will be expected to provide evidence of the same.' Please reply to this office with the necessary information by 19 June 2023. If we do not hear from you within this time, the President may decide to reject the application."

3. No response was received and a reminder was issued on 11 July 2023. Again, no response was received. The Applicant was advised that lack of response might mean that the Application would be rejected in terms of Rule 8 of the Rules.

Reasons for Decision

4. The Tribunal considered the application in terms of Rule 8 of the Chamber Procedural Rules. That Rule provides:- "*Rejection of application 8.-(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if- (a) they consider that the application is frivolous or vexatious;- (c) they have good reason to believe that it would not be appropriate to accept the application; (2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision.*"
5. Rule 65 of the Rules applies to short assured tenancies. The tenancy is a private residential tenancy and no evidence or information has been provided to show that the statutory process to terminate the tenancy has been followed to any extent. The Tribunal cannot grant the application without this evidence or information.
6. The Tribunal consider that there is good reason why the application cannot be accepted. Accordingly, the application is rejected.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Karen Moore

12 September 2023

Legal Member

Date